IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

MONDAY, THE 6TH AUGUST 2007 / 15TH SRAVANA 1929

WP(C).No. 31250 of 2006(T)

PETITIONER:

HUSSAIN, SHIBI NIVAS,
BHARANIKKAVU, MANAKKARA MURI,
SASTHAMCOTTA, KOLLAM DISTRICT.

BY ADV. SRI.B.KRISHNA MANI

RESPONDENTS:
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1. **THE CIRCLE INSPECTOR OF POLICE,**
   SASTHAMCOTTA, KOLLAM DISTRICT.

2. **THE SUB INSPECTOR OF POLICE,**
   SASTHAMCOTTA, KOLLAM DISTRICT.

3. **UNNI, THADATHAIVILA VEEDU,**
   MANAKKARA MURIYIL, SASTHAMCOTTA VILLAGE,
   KOLLAM DISTRICT.

4. **BALAKRISHNAN, BALACHANDRA BHAVAN,**
   DO. DO.

5. **SUDEESH KUMAR, BALACHANDRA BHAVAN,**
   DO. DO.

BY ADV. SRI.GOVIND K.BHARATHAN for R3, R4 & R5
BY GOVERNMENT PLEADER SRI. R.LAKSHMI NARAYANAN for R1&R2

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.31250/2006 T

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF THE REGISTERED DOCUMENT DTD. 1/08/1983.**

EXT.P2: **COPY OF THE NOTICE DTD. 13/12/2004 ISSUED BY THE TAHSILDAR, SASTHAMCOTTA.**

EXT.P3: **COPY OF THE TAX RECEIPT DTD. 2/12/2004.**

EXT.P4: **COPY OF THE RE-SURVEY SKETCH.**

EXT.P5: **COPY OF THE PLAINT DTD. 17/12/2005 IN O.S.NO.334/2005 BEFORE THE MUNSIFF'S COURT, SASTHAMCOTTA.**

EXT.P6: **COPY OF THE TEMPORARY INJUNCTION DTD. 16/01/2006 ISSUED BY THE MUNSIFF'S COURT, SASTHAMCOTTA.**

EXT.P7: **COPY OF THE REPRESENTATION DTD. 01/11/2006 FILED BY THE PETITIONER BEFORE THE CIRCLE INSPECTOR OF POLICE.**

EXT.P8: **COPY OF THE JUDGMENT DTD. 10/03/2005 IN WP(C) NO.7456/2005 BEFORE THE HON'BLE HIGH COURT OF KERALA, ERNAKULAM.**

/TRUE COPY/

P.A.TO JUDGE

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K.BALAKRISHNAN NAIR & HARUN-UL-RASHID, JJ.

WPC NO.31250 OF 2006-T

Judgment

Balakrishnan Nair, J.

The petitioner claims ownership and possession over 12 cents of land in Survey No.83/3/6 in Block No.13 of Sasthamcotta village. He submits, he has started construction of shop rooms in that plot of land. While so, respondents 3 to 5 started creating obstruction. So, Ext.P5 suit was filed before the Munsiff's Court, Sasthamcotta. The said court granted Ext.P6 interim order of injunction. Inspite of that interim order, the party respondents are threatening the petitioner and the workmen. So, he filed Ext.P7 representation before the police, seeking protection for the construction of shop rooms in the above said 12 cents of land. He points out that earlier he approached this Court when certain persons caused obstruction to the petitioner enjoying the property. This Court disposed of that Writ Petition by Ext.P8 Judgment, which reads as follows :

> *"This is a petition for police protection. According to the petitioner, he is the owner of 12 cents of property which is demarcated by boundaries. He produced Exts.P2 and P4 in support of the same. But, according to him, some unidentified persons obstructed his*

possession. The Government Pleader on instructions submitted that the authorities of Bharanikkavu temple, Sasthamcotta are stated to have created obstructions as they have got some disputes with regard to the property. If there is any property dispute, that has to be resolved by the civil court and declaration of possession, title or injunction cannot be granted by this court as that is the duty of the civil court. However, police will see that law and order is maintained and that the life of the petitioner and his family members are not endangered."

The petitioner submits, in view of the above Judgment, he moved the civil court and obtained Ext.P6 interim order. The police may be directed to enforce that interim order, it is submitted.

2. The learned Government Pleader submits that the Writ Petition is filed to execute Ext.P6 interim order of the civil court for which the petitioner has to move the civil court itself.

3. If Ext.P6 interim of the civil court is violated, the petitioner's remedy lies before the civil court. There is no enactment, authorising the police to execute the interim order passed by a civil court. Therefore, we find that there is no failure of duty from the part of the police, warranting interference by this Court. But, if there is

any breach of peace, the petitioner can move the police. In that event, the police will look into the same and ensure that peace is maintained. Subject to that observation, the Writ Petition is dismissed.

K.BALAKRISHNAN NAIR,JUDGE

06.08.2007 **HARUN-UL-RASHID, JUDGE**

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